



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

HD:hd
Docket No: 03912-99
15 November 2000

CDR [REDACTED] SN

Dear Commander [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 28 August 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. They noted that the reporting senior's endorsement dated 25 November 1996 on your statement dated 15 November 1996 did not expressly concede either that you received no mid-term counseling, or that you were not afforded an opportunity to provide input for your fitness report. Although the late submission of the contested report is not condoned, the Board was unable to find this invalidated the report. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

3912-00

1610
PERS-311
28 August 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: CDR [REDACTED], USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 26 December 1995 to 22 July 1996.

2. Based on our review of the material provided, we find the following:

a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member's statement and first endorsement is properly reflected in his record.

b. The member alleges that a personality conflict existed between himself and the reporting senior. Although Commander [REDACTED] claims a personality conflict existed, he has provided nothing other than his own statement in support of his claim.

c. Whether the member was counseled or not, does not invalidate the fitness report. The reporting senior indicated in his memorandum to Commander [REDACTED] statement that counseling did indeed occur by his rater and himself.

d. Reference (a), Annex S, paragraph S-3 states: "A member has the right to submit fitness or evaluation report input, and has the duty to do so if requested by the rater or reporting senior". The member could have submitted his input to his fitness report. Whether or not the member's inputs is used is the right of the reporting senior. The reporting senior indicated the member was briefed on his fitness report concerning the trait grades given and feels his grades were justified.

e. A fitness report does not have to be consistent with previous or subsequent reports. Each fitness report represents the judgment of the reporting senior during a particular reporting period.

f. Commander [REDACTED] included a statement of support from an officer that believes he overheard a conversation from his supervisor, which contained negative implications toward

Commander [REDACTED] While the material the member provided with his petition gives background, insight, and reflects favorably on the member, he was not responsible for evaluating the member's performance

g. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

[REDACTED]

Head, Performance
Evaluation Branch